

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 James Scott Alva,

7 Plaintiff,

8 v.

9 Lew Lewisburg USP, et al.,

10 Defendants.

Case No. 2:24-cv-00072-CDS-DJA

Report and Recommendation

11 On October 22, 2024, the Court denied Plaintiff's application to proceed in forma pauperis
12 and gave him until November 21, 2024, to file a complete one. (ECF No. 11). In that order, the
13 Court warned Plaintiff that "failure to comply with this order will result in a recommendation to
14 the District Judge that this action be dismissed." (*Id.*). When Plaintiff missed that deadline, the
15 Court entered an order to show cause why the Court should not recommend dismissal of the
16 action. (ECF No. 12). In doing so, the Court gave Plaintiff until January 8, 2025, to respond to
17 the order and explained that "[f]ailure to comply with this order will result in the recommended
18 dismissal of this action." (*Id.*). Plaintiff has missed that deadline and, to date, has not filed
19 anything further on the docket. Accordingly, the Court recommends dismissal of this case
20 without prejudice. A dismissal without prejudice allows Plaintiff to refile a case with the Court,
21 under a new case number.

22
23 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
24 prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff.

25
26 **NOTICE**

27 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be
28 in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The

1 Supreme Court has held that the courts of appeal may determine that an appeal has been waived
2 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142
3 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to
4 file objections within the specified time and (2) failure to properly address and brief the
5 objectionable issues waives the right to appeal the District Court's order and/or appeal factual
6 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991);
7 *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

8
9 DATED: January 27, 2025



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE